

INFORMATION

AMA Actions at Special Session

The following is the report of the Reference Committee on Legislation and Public Relations as amended and adopted by the AMA House of Delegates Special Convention, Chicago, 3 October 1965.

Mr. Speaker and Members of the House of Delegates:

Your Reference Committee recognizes the serious nature of the problems before this body and the decisions that must be made on this day—decisions which will affect the future of the practice of medicine for generations to come.

Your Committee heard 125 witnesses speak to 20 separate subjects during seven and one-half hours of testimony. Each witness spoke earnestly, forcefully, temperately, and with personal concern for the welfare of the patient in these United States.

Because of the the special nature of the subjects presented to this Special Convention and the interrelationship of the resolutions considered, your Reference Committee, in lieu of dealing with each resolution separately, has considered the intent and the language of all the resolutions. We believe it would be more expedient and practical to present for adoption by this House of Delegates a series of numbered comments, principles and policies which express the position of the American Medical Association on the issues under consideration.

Mr. Speaker, we have endeavored to evaluate, carefully and objectively, the matters before your Committee, and offer the following recommendations:

Physician-Patient Relationship

I. Physician-Patient Relationship. Public Law 89-97 affects the legal, traditional, and ethical concepts of the physician-patient relationship.

Legal counsel for the American Medical Association has stated that an individual physician acting independently and not in concert with others

can lawfully refuse to accept any person as a patient who is a beneficiary under the program, or he may elect to treat such persons.

ACTION: *Accepted for information.*

In response to a request for an opinion by the Speaker, the Judicial Council, on 1 October 1965, rendered the following opinion:

The *Principles of Medical Ethics* are applicable to physicians when they engage in group action as well as when they act individually. Section 4 calls upon physicians to observe all laws. Accordingly, medical organizations must be mindful of the possible consequences of the actions they propose, engage in or encourage.

Under ordinary circumstances, the individual physician acting independently, is ethically free to select his patients. (See Section 5 of the Principles.) (a) He may decline to render medical services to persons covered by the "Health Insurance for the Aged Act." (b) He may choose to treat such persons without charge. (c) He may treat patients with the advance understanding that he will look to them exclusively for payment and that he will or will not in any way help them in obtaining reimbursement for the cost of his services or the cost of associated services.

However, under some circumstances, the physician's freedom to select his patients may be circumscribed by overriding ethical considerations. For example:

1. A physician should respond to any request for his assistance in an emergency.
2. Once having undertaken a case, the physician should not neglect the patient, nor should he withdraw from the case without giving notice sufficient to allow the patient to obtain another physician.
3. If a physician decides not to participate in the Medicare program or decides to limit his participation, he should so advise the patient in advance of treatment. This applies to services rendered by the physician as well as hospital services and other benefits provided under the program.

4. As provided in Section 1 of the *Principles of Medical Ethics*, a physician should not refuse to render medical services to any person if as a result such person will be unable to get necessary medical care.

It should be noted also that section 6 of the Principles provides that "A physician should not

dispose of his services under terms or conditions which tend to interfere with or impair the free and complete exercise of his medical judgment and skill or tend to cause the deterioration of the quality of medical care." If after regulations are promulgated and the Medicare law becomes effective, the individual physician acting independently and not in concert with others, finds it does tend to impair the free and complete exercise of his medical judgment and skill or to cause a deterioration of the quality of medical care, the individual physician would be justified under this Principle in not participating under the law. The physician is ordinarily free to select his patients, subject to such ethical limitations as previously stated in Section 6 of the *Principles of Medical Ethics*, the Bauer Amendment, and in keeping with the nine principles for standards of health care programs adopted A-1965.

ACTION: *Accepted for information.*

In accepting the Judicial Council's opinion, as reported by the Reference Committee, the House called attention to the fact that this opinion should be read together with the Bauer Amendment (A-1961) and the nine principles for standards of health care programs adopted A-1965; and that these two items be distributed with the Judicial Council's opinion on the ethics involved in physician participation or non-participation in the Health Insurance for the Aged Act.

Mr. Speaker, your Reference Committee believes that it is desirable for this House to adopt a statement of policy regarding the traditional physician-patient relationship as it relates to Public Law 89-97. Mr. Speaker, we recommend that the following statement be adopted:

The American Medical Association opposes any program of dictation, interference, or coercion, whether direct or indirect, affecting the freedom of choice of the physician to determine for himself the extent and manner of participation or financial arrangement under which he shall provide medical care to patients under Public Law 89-97.

ACTION: *Adopted as amended.*

Regulations Under Public Law 89-97

II. Regulations Under Public Law 89-97. It was clear from the testimony received by your Reference Committee that the medical profession has a vital interest in the regulations which are

to be promulgated under Public Law 89-97. Hastily drawn, unrealistic regulations could aggravate even further the undesirable effects of this law. Mr. Speaker, we recommend the adoption of the following statement as the present position and policy of the American Medical Association:

(a) The American Medical Association shall continue to meet with representatives of agencies and departments of the Federal Government, to participate in such advisory committees which are created, and to contribute whatever advice and suggestions are deemed advisable and necessary in the formulation and revision of regulations which will help it achieve Medicine's objectives on behalf of the public and the profession.

(b) The American Medical Association urges every physician, regardless of the extent of his involvement, to render whatever advice and assistance he can so that regulatory changes and/or legislative modifications may be suggested or sponsored by the American Medical Association in order that the best interests of the public and the profession may be protected in the provision of medical care.

(c) This House of Delegates expresses confidence in the Board of Trustees of the American Medical Association, its Advisory Committee, and the three-man Consultant Committee on Public Law 89-97 for their continuing efforts to secure regulations which are in the best interests of good patient care.

ACTION: *Adopted as amended.*

Related Items

Mr. Speaker, your Reference Committee next considered a number of items related to the primary subjects under consideration:

III. Certification by Physicians. Your Reference Committee recommends the adoption of the following statement of policy:

Current practices and customary procedures with respect to certification for hospital admission and care shall be continued under Public Law 89-97. The AMA Advisory Committee and the Association representatives to the technical advisory committees are advised to seek to accomplish this objective.

ACTION: *Adopted.*

IV. Blue Shield as Intermediary. Regulations yet to be promulgated will identify the nature of

intermediaries under Public Law 89-97. Your Committee offers the following statement:

Blue Shield has, in many areas, demonstrated its ability to provide a competent insurance program. However, the AMA should leave to the state or appropriate local medical society, as the case may be, the expression of any preference for selection of a carrier.

ACTION: Adopted.

V. Reasonable Fees. Concern was expressed with respect to possible disputes between physicians and carriers relative to reasonable fees under the provisions of Public Law 89-97. We recommend the following statement of policy:

In the event of a dispute between physicians and carriers with respect to reasonable, customary, or usual fees, such disputes shall be resolved with the participation of the appropriate local medical society.

ACTION: Adopted.

VI. Utilization Review. Differences of opinion as to the purpose of utilization review committees were expressed. However, there was general agreement that with respect to the composition of such committees, the limitation of membership to include only physicians is preferred. Accordingly, we recommend the following statement to the House: Hospital utilization review committees shall be composed of practicing physicians.

Action: Adopted as amended.

Your Reference Committee understands that the Council on Medical Service will conduct a conference on the subject of utilization review committees on 27 November in Philadelphia. Recognizing the importance of this subject matter, your Reference Committee recommends that Resolutions No. 8, 18, and 35 be referred to the Council on Medical Service with instructions that the Association's Advisory Committee as well as the Board of Trustees and the House of Delegates be kept informed of developments in this area.

ACTION: Adopted.

VII. Compensation for Medical Services. Your Reference Committee believes that the physician should be informed fully as to the merits and limitations of billing patients directly for services, or accepting an assignment to enable payment by a federally designated fiscal intermediary, so that the physician can decide for himself in

each instance the method of compensation which he prefers. We recommend that the Association take appropriate action to inform physicians regarding the options of payment for services available to them under the law and its regulations.

ACTION: Adopted as amended.

VIII. Shortage of Hospital Beds. The Oregon Delegation requested a survey of the probable shortage of hospital and related facility accommodations which may occur as a result of the implementation of Public Law 89-97. It also called for the development of a mechanism under which sufficient accommodations for the acutely ill, injured, or those in need of elective procedures will be reserved.

It is your Reference Committee's understanding that this subject is under active consideration by the Council on Medical Service. Your Committee accordingly recommends that this matter be referred to the Council for appropriate action.

ACTION: Adopted.

IX. Legal Opinion by AMA Counsel. Your Reference Committee was greatly impressed by the candid, forthright presentation by Mr. A. Leslie Hodson, legal counsel for the American Medical Association. We believe that his remarks should be made available to all constituent associations for their information and study. We believe that this will engender a better understanding of the legal limitations which face all medical organizations and the medical profession. Your Reference Committee recommends that the remarks of Mr. Hodson be distributed to the constituent associations.

ACTION: The House instructed the Board of Trustees to implement this action at the earliest possible date.

X. Non-Discrimination Under Federally Assisted Health Care Programs. Witnesses testified that a number of state agencies require pledges of non-discrimination for the ostensible purpose of meeting the requirements of title VI of the Civil Rights Act. Comments received were justifiably bitter in view of the profession's record of non-discrimination in patient care.

Your Reference Committee has been informed that the Department of Health, Education, and Welfare has recognized the injustice of these state agency requirements and has recommended a substantial modification of this practice. Your Refer-

ence Committee believes that this matter should receive continuing surveillance.

ACTION: *Although the Reference Committee recommended that this subject be referred to the Board of Trustees for continuing study by the Association's Law Department, the House did not concur and, in response to a motion from the floor, adopted Resolution No. 1. (See Page 361.)*

XI. Separation of Professional Fees and Hospital Charges. Mr. Speaker, we offer the following statement of policy for consideration by the House:

Hospital-based medical specialists are engaged in the practice of medicine. The fees for the services of such specialists should not be merged with hospital charges. The charges for the services of such specialists should be established, billed and collected by the medical specialist in the same manner as are the fees of other physicians. The American Medical Association intends to continue vigorously its efforts to prevent inclusion in the future of the professional services of any practicing physician in the hospital service portion of any health care legislation.

ACTION: *Adopted as amended.*

Comments by Committee

Mr. Speaker, the policy statements herein presented to the House for its action are intended to respond to the specific problems placed before this Reference Committee. We are certain that more definitive statements on Public Law 89-97 will be adopted by this House as regulations are promulgated and as the program is implemented. But lest we be misunderstood, your Committee wishes to clearly emphasize that none of its recommendations should be construed as approval of Public Law 89-97, or in any way as acceptance of its philosophy.

Dr. James Z. Appel, in his remarks as President, told of his awareness of the problems before us. Dr. Appel spoke in his own behalf, but his comments reflect your Committee's feelings as well.

We congratulate him on his statesmanlike presentation, and we commend to each delegate the written transcript of his remarks.

Dr. Appel reminded us that, "Ours is a profession which must remain unified." "Ours is a profession which *must* remain unified," echoed many a speaker before your Reference Committee. These expressions of unity were voiced time and time again.

How shall we best maintain unity?

The Board of Trustees, in its report to this House, detailed in chronological order its efforts and experiences since the Annual Convention in June 1965. Your Committee heard many witnesses testify to the good work of the Board, to its devotion, and to its strength during these difficult times. To these unanimous expressions of confidence, your Committee adds its own. But we would not stop here. The leadership of the American Medical Association has been tested under fire. In difficult and crucial times, our officers and the Board have responded to legislative crises with courage and conviction. Years of withstanding the onslaught of the Medicare proponents did not weaken or lessen the determination of our officials.

The enactment of Public Law 89-97 would have come long before were it not for the leadership of our Board and Officers.

Nor should we fail to gratefully acknowledge the dedication, the inexhaustible effort, and the guidance provided by Dr. Blasingame and Dr. Howard, our Executive and Assistant Executive Vice Presidents.

We believe that the members of this House of Delegates would profit from a current report of the Association affairs, its programs, facilities, and personnel. Mr. Speaker, your Reference Committee recommends that Dr. Blasingame be invited to make such a presentation at the Clinical Meeting in Philadelphia.

ACTION: *Adopted.*

Mr. Speaker, before closing this report, your Committee would acknowledge some additional testimony received during the course of its hearing. Some speakers complained of inadequate knowledge of the activities of the Board, Councils and Committees of the Association. We believe that wherever the fault may be found, it must be shared by many. Undoubtedly, the Association should strive to continue to improve all means of communication available to it so that each physician member will be kept well informed on important matters. But each physician must be willing to receive the information beamed his way—through news releases, the weekly *AMA News*, and other AMA journals, publications, and communications. Finally, some of the fault must be shared by those state societies, or local medical societies, who at times receive the news from the AMA but fail to relay it to their members.

In Resolution No. 3 and in other remarks of witnesses, the Board and the House of Delegates were asked to consider the need for long-range planning. Your Committee believes that planning for the future should be an integral part of the activities of each AMA Council and Committee, as well as of the Board. While we realize that planning is a continuing and on-going program in the AMA, we would urge that the Board of Trustees take steps to assure that efforts in this regard be stressed even more by the Councils and Committees. Society is in constant flux and the American Medical Association must be prepared to meet the challenge of our times.

In still other remarks, the need for active physician participation in political activity remains clear. Your Reference Committee recommends that the House urge constituent medical societies and physicians to support and assist AMPAC and local medical political action committees in their efforts to elect candidates to office who will help preserve the physician's right to the free and independent practice of medicine.

In conclusion, Mr. Speaker, the members of your Reference Committee have been privileged to act in the capacity assigned to them. We know that in these trying times, the physicians of America will stand together and serve together in the best interests of their patients.

As a point of personal privilege, Mr. Speaker, I wish to express my gratitude to each member of the Committee for his patience, and for his diligent effort in discharging the monumental task assigned to him.

Submitted by:

GEORGE J. LAWRENCE, JR., M.D., New York
GEORGE W. PETZNICK, M.D., Ohio
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Resolution No. 1

Introduced by: Ohio Delegation
Subject: Pledge of Non-Discrimination

WHEREAS, the Department of Health, Education, and Welfare has attempted to force physicians treating patients under federally-assisted programs to sign pledges of non-discrimination; and

WHEREAS, physicians, by subscribing to the Principles of Medical Ethics, willingly pledge to

render service unconditionally to all patients with full respect for the dignity of man, providing for each a full measure of service and devotion, including in time of war the provision of medical care to the captured enemies of our country; and

WHEREAS, these conditions willingly self-imposed by the medical profession far exceed any pledge of this nature demanded by a Federal bureaucracy; therefore be it

Resolved, That all physicians are hereby informed that the refusal to sign such an oath does not flout the law; and be it further

Resolved, That the House of Delegates directs the Board of Trustees and the Officers of this Association to oppose actively and forcefully this and any future attempts by HEW or any other Federal agency to impose conditions and pledges upon the medical profession.

A Psychiatric Service for Adolescents

JOSEPH D. TEICHER, M.D.
Los Angeles

AFTER MANY YEARS of obvious need, an Adolescent Inpatient Service for emotionally disturbed young people was opened on July 15, 1964, in the Psychiatric Unit of the Los Angeles County General Hospital. Much planning and energy went into fulfilling this community need, particularly on the part of the hospital authorities, Dr. Edward Stainbrook,* and the Child Psychiatry Unit.

Physical Facilities

The eighth floor, on which the service is located, is a long straight corridor with rooms opening to the right and left. Formerly used for occupational therapy, meeting rooms and school, it was remod-

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